



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	HB0510	<b>Title:</b>	Assist local governments with federal land projects
<b>Primary Sponsor:</b>	Redfield, Alan	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### **FISCAL SUMMARY**

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b>Expenditures:</b>				
General Fund	\$1,820,838	\$1,797,638	\$1,826,834	\$1,859,438
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$1,820,838)</u>	<u>(\$1,797,638)</u>	<u>(\$1,826,834)</u>	<u>(\$1,859,438)</u>

**Description of fiscal impact:** HB 510 requires the Departments of Fish, Wildlife and Parks (FWP) and Natural Resources and Conservation (DNRC) to serve as "...consulting subject matter experts to aid in addressing adverse federal land management plans, policies, decisions, regulations, actions, or lack of timely resource management within a local government's jurisdiction". Staff would be required to provide expert-level research, analyses, reports and response documents, or narratives upon request from local governments.

### **FISCAL ANALYSIS**

#### **Assumptions:**

#### **Department of Fish, Wildlife & Parks (FWP)**

- Potential "adverse federal land management actions" may include, but are not limited to, the following types of issues:
  - Forest Plans
  - Forest Plan Amendments
  - BLM Resource Management Plan
  - USFWS National Wildlife Refuge CCPs
  - Bureau of Reclamation land and recreation management plans
  - Travel Management Plans
  - Winter Recreation Plans

- Timber Sales
  - Grazing allotment plans/revisions
  - Hard Rock Mining leases and mining operations
  - Communication, Utility, and Pipeline Sitings
  - Mineral Leases and Lease Development (oil, gas)
  - Vegetation Treatments (e.g., prescribed burns)
  - Area Designations (e.g., Study Areas)
  - Budget Allocation Decisions (e.g., use funds for forest fires vs. timber sale planning)
  - Commercial Use permitting (including outfitters)
  - Food Storage Orders
  - 14-day limits at a single spot (Stay Limits)
  - Cabin Site Renewals/Fees
2. Potential for “lack of timely resource management” decisions may include, but are not limited to, the following types of issues:
    - Lack of forest management/timber sales
    - Lack of weed eradication
    - Lack of road development
    - Lack of road closures (note: this bill could be used by anti-development factions as much as by pro-development ones)
    - Lack of mineral lease availability
    - Lack of road maintenance
  3. A local government who could request assistance from FWP per this bill could be a city, town, or county.
  4. Currently, based on US Forest Service figures, FWP assumes there are 25 projects per region ongoing at any one time (all federal agency lands). Many of these overlap multiple counties. For seven regions, this equates to 175 projects which may be ongoing at any time. Because the bill also includes policies, regulations, and actions, the total requests from local governments could be 525 statewide.
  5. FWP estimates local governments would request FWP coordination on half of these plans, or 263 per year.
  6. Of the 263 requests, FWP estimates 25% of requests would be to address large/broad issues (e.g., Forest Plans) that span multiple local governments. This would equate to 10 requests per region per year.
  7. In addition, the department assumes it would be requested to address lack of timely resource management decisions 5 times per year per region, probably on issues that span multiple local governments.
  8. However, additional staff would be needed to address the large/broad decisions (assumption 6 above).
    - a. Large/broad issues would require extensive coordination with multiple local governments, each of whom may have different issues they want addressed. There may be a need to attend public meetings, scoping meetings, etc. to fully understand the issue. It is assumed that the average time that would be dedicated to large/broad issues would be 30 days.
    - b. 10 requests per region x 30 days per request x 7 regions would be 16,800 hours statewide.
  9. Staff will be needed to address the smaller, single local government decisions. It is estimated that these issues would take 3 days of staff time.
    - a. (263-70) requests x 3 days per requests would be 4,620 hours statewide.
  10. Staff will be needed to address lack of timely resource management decisions (assumption 7 above).
    - a. It is assumed that issues related to lack of timely resource management will take 50% of the time to address as a large/broad issue, or 15 days.
    - b. 5 requests per region x 15 days per request x 7 regions would be 4,200 hours statewide.
  11. All requests will require time to research the issue, the history surrounding the issue, applicable state and federal laws, and to develop science-based fact checks, and develop rebuttal arguments

12. Based upon the assumptions above, the department would need an additional 12.00 FTE (25,620 total hours/2,080 = 12.3 FTE) to address the estimated number of requests.
13. Based on the above assumptions, the FTE breakdown would be 10.00 FTE fish/wildlife biologists, 1.00 FTE park manager dedicated to serving as a liaison between local governments and federal agencies, and 1.00 FTE attorney. The total estimated salary and benefits for the 12.00 FTE would be \$776,388 annually. Operating expenses are estimated at \$110,000 annually.
14. FWP's Fisheries and Wildlife Divisions are primarily funded with state hunting and fishing license dollars, and federal (PR/DJ) dollars obtained from the USFWS. Neither of these funding sources can be used for costs not associated with management of the agency, or of the fish and wildlife resources for which it has management authority. Doing so would constitute a diversion of license revenue as defined by the US Fish & Wildlife Service (USFWS) (MCA 87-1-708 and 50 CFR80.11), making FWP ineligible to receive future funding from USFWS grant programs. This would affect \$27,779,751 of federal funds. Therefore, it is assumed the expenses would be paid from the general fund.

**Department of Natural Resources and Conservation (DNRC)**

15. HB 510 does not limit DNRC obligation to available resources. If existing staff are not qualified or are unable to meet local government deadlines, DNRC may be obligated to contract for private consulting and legal services in order to comply with HB 510. The amount of general fund required annually is unknown; however, it includes the amount reflected in the Forestry Assumptions and fiscal tables.

*Forestry Division*

16. DNRC assumes approximately 150 projects annually (25 per area office) in which DNRC would assist local governments.
17. For fiscal note purposes, it is assumed DNRC would add a County Assistance Section to the Forestry Division's Forestry Assistance Bureau that would consist of:
  - a. 1.00 FTE for the county assistance program manager;
  - b. 1.00 FTE for the fuels reduction coordinator; and
  - c. 6.00 FTE for county advisors placed within each of the six DNRC area offices.
18. Costs for these positions include personal services, office packages and computer setup (FY 2016 only), travel, transportation, per diem, etc.
19. The Forestry Division would require these additional FTE to expedite fuel reduction projects on federal forested lands upon request of a local government for projects that meet the criteria of Section 1(3) and (5).
20. Salary and benefits for the 8.00 FTE is estimated at \$570,000 annually. Operating expenses for the FTE are estimated to be \$23,200 in FY 2016.
21. In addition, DNRC would contract with Department of Justice - Agency Legal Services (ALS) to provide legal assistance to DNRC staff and local governments. Expenses for attorney and legal assistants are estimated to be \$221,250 annually.
22. A 1.5% inflationary factor has been applied for FY 18 and FY 19.

*Trust Land Management Division (TLMD)*

23. Federal land management plans, policies, decisions, regulations, and actions have the potential to involve timber, agricultural, commercial, or mineral resource areas. Land management issues have the potential to encompass multiple subject matter expert disciplines, including forestry, real estate, land use planning, agriculture, biology, hydrology, geology, mineral engineering, archaeology, economic analysis, and land management law.
24. The number, timing, and frequency of requests for state assistance are unpredictable and may fluctuate widely. The complexity and subject matter is also unpredictable.
25. Federal actions commonly have deadlines for responses and appeals. These time and resource constraints are outside DNRC control.
26. Compliance with HB 510 will require TLMD to redirect staff and resources for non-trust purposes. The timing and amount of resources no longer available to meet trust land management obligations is unknown. The adverse impact to trust land management programs is unknown.

27. HB 510 contains an appropriation of \$120,000 to the DNRC to implement the bill. If TLMD staff were redirected for this purpose, the primary source of division funding, the trust administration account, would not be appropriate funding for this type of work. A general fund request in addition to the \$120,000 in Section 3 would be required.
28. HB 510 does not limit TLMD obligation to available resources. If TLMD staff is not qualified or if available staff is unable to meet local government deadlines, TLMD may be obligated to contract for private consulting services (see General Assumption 1).

**Water Resources Division (WRD):**

29. The impact to WRD is undeterminable as it would be dependent upon the scope and number of instances a local government would request services.

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
FTE	20.00	20.00	20.00	20.00
<b><u>Expenditures:</u></b>				
Personal Services	\$1,346,388	\$1,346,388	\$1,370,466	\$1,397,875
Operating Expenses	\$474,450	\$451,250	\$456,368	\$461,563
Equipment	\$0	\$0	\$0	\$0
Benefits	\$0	\$0	\$0	\$0
Transfers	\$0	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<b><u>\$1,820,838</u></b>	<b><u>\$1,797,638</u></b>	<b><u>\$1,826,834</u></b>	<b><u>\$1,859,438</u></b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	<u>\$1,820,838</u>	<u>\$1,797,638</u>	<u>\$1,826,834</u>	<u>\$1,859,438</u>
<b>TOTAL Funding of Exp.</b>	<b><u>\$1,820,838</u></b>	<b><u>\$1,797,638</u></b>	<b><u>\$1,826,834</u></b>	<b><u>\$1,859,438</u></b>
<b><u>Revenues:</u></b>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL Revenues</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$1,820,838)	(\$1,797,638)	(\$1,826,834)	(\$1,859,438)

**Technical Notes:****FWP**

1. If FWP is not provided a general fund appropriation for implementation of the bill, the agency does not have other resources available other than expenditure of Montana's hunting and fishing license revenues for activities beyond the fish and wildlife management of the agency. This conflicts with the assent statute language in 87-1-701 and 708, MCA, which requires compliance with Title 50 of the Code of Federal Regulations (50 CFR, 80.10), effective August 1, 2011, which directs that a state fish and wildlife agency may become ineligible to receive federal funding from the USFWS if it loses control of its ability to direct the use and expenditure of hunting and fishing license revenue.
2. Preparing rebuttals for local governments as required in HB510 may put FWP in conflict with other statutes that direct the management of fish and wildlife resources.

**DNRC**

3. The types of federal actions subject to HB 510 are unclear. Section 1(1) is limited to federal land management plans, while section 1(2) which is a separate obligation may include any type of federal plan. Section 1(2) is limited to proposed actions, while section 1(1) may include any status of action, proposed or existing. Section 1(2) is limited to actions pursuant to NEPA, while section 1(1) is not.
4. The kind of assistance which is required to be provided is also unclear. Section 1(1) requires subject matter consultation services and section 1(2) requires reports and rebuttal arguments to NEPA. Both these sections appear to contemplate legal services and potentially long-term involvement in legal issues.
5. HB 510 provides an appropriation of \$120,000 from the general fund. The bill does not provide a timeframe for the appropriation.
6. The \$120,000 general fund appropriation referenced in HB 510 is not sufficient for DNRC to aid in addressing federal land plans, policies, decisions, regulations, actions or lack of timely resource management within the local government's jurisdiction.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*